

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**RICARDO BRYAN NEWSOME,
123359**

PLAINTIFF

v.

CIVIL NO. 1:18cv178-HSO-RHW

STATE OF MISSISSIPPI, et al.

DEFENDANTS

ORDER DIRECTING CLERK TO OPEN A NEW CASE

BEFORE THE COURT is pro se Plaintiff Ricardo Bryan Newsome's "Constitutional Challenge to a Statute Rule 5.1(a)(1)(B) F.R.C.P." [37]. Newsome is incarcerated with the Mississippi Department of Corrections, and the Court dismissed this action on August 15, 2018. Mem. Opin. & Order of Dismissal [14] at 1.

The present pleading appears to be an attempt to initiate a new civil action. Newsome did not include a civil action number on the filing, which suggests he may have intended it as a new case. Const. Challenge [37] at 1. In addition, Newsome brings the instant pleading against only two parties, not the numerous Defendants originally named in this case—another indication that this pleading was not meant for the instant civil action. *Id.* Newsome indicates that he intends the pleading to act as an initiating Petition, stating that, "[t]his is a new pleading to be placed on the civil docket with a new case or civil action number." *Id.* at 7. Newsome also refers to himself as "Petitioner," claims that he "brings this action," *id.* at 1, makes a "Jurisdictional Statement," *id.* at 2, and asks the Court "in independent action to

be relieved from the final [criminal] judgment in the Harrison County Circuit Court of Mississippi,” *id.* at 3, by “the setting aside of the final judgment given in the Harrison Co. Circuit Court, and to issue an order for the immediate release of Newsome,” *id.* at 6. Newsome further pleads that his state remedies are exhausted and raises two claims seeking relief from his state conviction. *Id.* at 3-4.

Based on the foregoing, the Court construes this pleading as a new Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Clerk of Court shall open a new § 2254 habeas action and file the instant pleading as the Petition in the new case. The Clerk shall also file a copy of this Order in the new habeas action.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Court construes pro se Plaintiff Ricardo Bryan Newsome’s “Constitutional Challenge to a Statute Rule 5.1(a)(1)(B) F.R.C.P.” [37] as a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Clerk of Court shall open a new habeas case and file the Petition, along with a copy of this Order, in the new habeas action.

SO ORDERED AND ADJUDGED, this the 20th day of January, 2022.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE